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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/689,159	10/20/2003	Kevin L. Kimle	P03566USD1	6394
22885 7590 10/07/2008 MCKEE, VOORHEES & SEASE, P.L.C. 801 GRAND AVENUE SUITE 3200 DES MOINES, IA 50309-2721				
EXAMINER				
TRAN, HAI				
ART UNIT		PAPER NUMBER		
3694				
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10/07/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/689,159

Applicant(s)

KIMLE ET AL.

Examiner

HAI TRAN

Art Unit

3694

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This is the communication in response to Applicant's Amendment/Remarks filed on June 23, 2008, for application, titled: "Method for Electronically Initiating and Managing Agricultural Production Contracts".
2. Claims 1-28 are pending in this application and have been examined.

Response to Arguments

3. Applicant's arguments with respect to claims 1-28 have been fully considered but some of them are not persuasive.
4. Applicant argues that the claimed invention describes a method of trying to initiate a contract between a specified buyer and a specified seller, while the Manual and Hunt references toward a system to price and then trade financial instruments (see Remarks, pages 11, last line, page 12, first and third paragraphs, page 14, first paragraph).
5. The Examiner disagrees. The claimed invention is based on a website (a system) that allows a buyer to post it desired needs and any number of suppliers to post what they would be willing to supply (pricing) and then form a contract (trade). This is exactly what is taught by the Manual and Hunt references. Manual and Hunt together disclose a system (website) that allows buyer and seller to price the financial instruments (willing to buy and willing to supply) and then trade (forming contract).
6. The Examiner, however, agrees with the Applicant that Hunt does not explicitly disclose using an Internet (see Remarks, page 12, second paragraph).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claims 1-28** are rejected under 35 U.S.C. 103(a) as being unpatentable over
Commodity Trading Manual ("Manual") in view of Walker et al. (U.S. Patent No.
5,794,207) ("Walker").

Examiner's Note: Examiner has cited particular columns and line numbers in the references as applied to the claims for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

9. **With respect to Claim 1**, Manual together with Walker disclose a method of facilitating the contracting of agricultural commodities using the Internet comprising the steps of:

providing a web server connected to the Internet (see Walker, col. 11, lines 55-61, Figures 1, 2/element 200. Manual, page 35 where it says "Futures exchanges provide a location for buyers and sellers to meet");

providing in operative communication with the server a centralized database system for the storage and retrieval of data (see Walker, col. 11, lines 3-7, Figure

2/element 250. Manual, page 35 where it says "This activity is centralized on the trading floor of each futures exchange");

storing data in the database system relating to types and amounts of potential commodities desired by one or more commodity buyers (see Walker, col. 12, lines 54-67, Figure 2/element 250. Manual, pages 36 where it says "This is accomplished by futures exchanges through a variety of communication systems. The Chicago Board of Trade's advanced computer system");

in response to a command input into the system, displaying a listing of desired commodities including information related to the types, amounts available of the commodities (see Walker, col. 14, lines 53-65, Figure 3 and 4 "display device". Manual, page 194 where it says "Varieties of Corn");

receiving input data from a potential supplier of an commodity relating to a specific type and amount of a commodity which the supplier is willing to supply to a buyer harvest or at other times (see Walker, col. 14, lines 53-65, Figure 3 and 4 "input device". Manual, pages 36 where it says "Transactions made on the trading floor must be reported"); and

generating a contract for the sale of the specific type and amount of the commodity by the supplier to the buyer (see Walker, col. 15, lines 60-7 of col. 17, Figure 5/elements 500-580. Manual, pages 315 and 324).

10. Manual discloses a process and information related to contracting agricultural commodities including types and amounts of agricultural commodities, trading by buyers desiring agricultural commodities and suppliers willing to supply agricultural

commodities and sales contracts for such agricultural commodities. However, Manual does not expressly disclose a web server for buyers and sellers to create a contract on the Internet.

11. Walker discloses a system and method for prospective buyers of goods and services to bind a contract with prospectively sellers on the Internet. Walker discloses all elements in the claim including providing a web sever, database storage, storing data, displaying data, receiving input data, and generating contract.

12. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to automate the process taught by Manual using the system/method as taught by Walker in order to gain the efficiency and effectiveness for buyers and sellers to create a binding contract on the Internet, and since the claimed invention is merely an automation of a well known process, all this would be accomplished with no unpredictable results.

13. **With respect to Claims 2-12**, these are the dependent claims depend on claim 1. Hence, they are rejected as well.

14. **With respect to Claim 13**, this claim is similar to claim 1 with the exception of updating the listing of commodities (see Manual, page 324, "Trading unit" and the discussion in claim 1 above).

15. **With respect to Claims 14-23**, these are the dependent claims depend on claim 13. Hence, they are rejected as well.

16. **With respect to Claims 24-28**, these claims include the necessary database maintaining method, apparatus and processors for implementing the method claims 1-

23. They have the same elements and limitations. Hence, they are rejected under the same rationale provide in claims 1-23.

Official Notice

17. Applicant argues that the claims disclose a method for creating a contract specifically for types and amount of agricultural commodities on the Internet. The Applicant also argues that at the time of the invention, contracting was extremely labor intensive and complex. The Examiner has reviewed Applicant's claims and concluded that with the exception of the agricultural commodities, the claims basically disclose a known or obvious process for buyers and sellers to create a contract on the Internet. The independent claim 1 is present below without the agricultural commodities to show how the claim corresponds to a standard process for creating a contract on the Internet:

18. A method of facilitating the contracting of ... using the internet comprising the steps of:

- providing a web server connected to the Internet;
- providing a centralized database system for the storage and retrieval of data;
- storing the data in the database system ... ;
- in response to a command input into the system, displaying a listing of ... ;
- including information related to ... ;
- receiving input data from ... and;
- generating a contract

19. As it can be seen that the claim discloses a common process for buyers and sellers to create a contract on the Internet and that all the elements (providing, storing, displaying, including, receiving and generating) are disclosed in Walker and Manual.

20. Official Notice is taken that it is old and well known in the art to automate a manual process using a processor. Automating a manual process speeds the process and increases accuracy over manual actions. It would have been obvious to one of ordinary skill in the art at the time of the invention to automate the process as taught by Manual by providing a processor as taught by Walker, as this would have provided faster and more accurate for contracting. To be patentable, a claim must be specific to its invention and this is not read in Applicant's claim language.

21. Note is taken by the Examiner that should the applicant find objectionable any statements made herein by the Examiner regarding Official Notice, Applicant can make a proper challenge to those statements only by providing adequate information or argument so that on its face it creates a reasonable doubt regarding the circumstances justifying those statements: a simple response requesting a reference without doing so, or a response that fails to logically refute the basic assumptions underlying the justification, will result in an improper and failed challenge and those unchallenged statements will remain the record of the case.

Conclusion

22. Claims 1-28 are rejected.

23. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HAI TRAN whose telephone number is (571)272-7364. The examiner can normally be reached on M-F, 9-4 PM.
24. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James P. Trammell can be reached on (571) 272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.
25. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/H. T./
Examiner, Art Unit 3694

/James P Trammell/
Supervisory Patent Examiner, Art Unit 3694